



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/619,947	07/20/2000	John A. Kuelbs	0581MH-35583	2854

7590 05/23/2003
Melvin A Hunn
Hill & Hunn LLP
Suite 1440
201 Main Street
Fort Worth, TX 76102-3105

EXAMINER

FADOK, MARK A

ART UNIT	PAPER NUMBER
----------	--------------

3625

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/619,947

Applicant(s)

KUELBS ET AL.

Examiner

Mark A Fadok

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Drawings***

New corrected drawings are required in this application because the drawings are in formal (see MPEP for details on what constitutes an acceptable drawing). Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Regarding claims 1,13,20 and 39, the words "general and generally" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Appropriate correction is required.

Regarding claim 24, the phrase "to the extent necessary" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Appropriate correction is required.

Regarding claim 39, the phrase "relatively disintermediated" renders the claim indefinite because it is unclear whether the limitation(s) following the

Art Unit: 3625

phrase are part of the claimed invention. See MPEP § 2173.05(d). Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (6,049,778), in view of Shkedy (6,260,024) and further in view of Official Notice.

In regards to claims 1-56, Walker teaches all the limitations of the instant application, for instance, Walker teaches an e-commerce site that provides buyers with a reward for purchasing goods early and progressively recalculates the reward as product is purchased at later times (see at least the abstract, summary and drawings). Walker however does not specifically teach the following:

In regards to claims 1,20, and 39, Walker does not specifically teach creating pricing in accordance with financial risk. It is old and well known in the art to offer lower prices to people who are early-adopters. It would be obvious to a person of ordinary skill in the art to include in Walker, associating

Art Unit: 3625

rewards for early adoption based on risk, because this would provide a formulation by which a pricing/reward schedule could be quantified.

In regards to claims 5,24, and 43, Walker does not specifically teach pre-qualifying buyers, however, it is old and well known in the art to include pre-qualification of buyers who will be paying at a later date, because this reduces the risk associated with building products for a buyer who has not as yet paid.

In regards to claims 8,27, and 46, Walker does not specifically teach aggregating offers from a varying group of purchasers. Shkedy teaches pooling offers of a plurality of buyers to arrive at a large order that can be submitted to a manufacturer. It would be obvious to a person of ordinary skill in the art to include in Walker pooling offers from a plurality of different buyers, because this would expand the usefulness of Walkers invention and increase the likelihood that the system will be used by a greater number of buyers.

In regards to claims 14,35, and 52, Walker does not specifically teach a plurality of cascading graphical user interface. The use of cascading graphical user interfaces is old and well known in the art. It would be obvious to a person of ordinary skill in the art to include in Walker the cascading interfaces, because that would create a user-friendly environment and make the system easier to use.

In regards to claims 18,37, and 39, Walker does not specifically teach aggregating the buyers offers and sending them to the manufacturer for acceptance. Shkedy teaches pooling orders and communicating those orders to a potential seller (col 4, lines 50-67)

Art Unit: 3625

In regards to claims 19,38,39, and 56, Walker teaches, wherein said aggregated input from said plurality of potential purchasers is provided to potential manufacturers in-part in return for a production guarantee from potential manufacturers (See Shkedy and contract (col 4, lines 50-67)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(703) 605-4252**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(703) 308-1344**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(703) 305-7687 [Official communications; including
After Final communications labeled
"Box AF"]

(703) 746-7206 [Informal/Draft communications, labeled

Art Unit: 3625

"PROPOSED" or "DRAFT"]

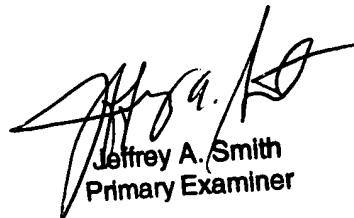
Hand delivered responses should be brought to Crystal Park 5, 2451

Crystal Drive, Arlington, VA, 7th floor receptionist.



Mark Fadok

Patent Examiner



Jeffrey A. Smith
Primary Examiner